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DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

By *Marie J. ...*

* * *

In the Matter of the Accusation of)
)
)
THOMAS ELLIOTT MECKENSTOCK,)
)
)
Respondent.)

No. H- 6773 SF
OAH N-41680

DECISION

The Proposed Decision dated January 28, 1993
of the Administrative Law Judge of the Office of Administrative
Hearings is hereby adopted as the decision of the Real Estate
Commissioner in the above-entitled matter.

The Decision suspends or revokes one or more real estate
licenses on grounds of the conviction of a crime.

The right to reinstatement of a revoked real estate
license or to the reduction of a suspension is controlled by
Section 11522 of the Government Code. A copy of Section 11522 and
a copy of the Commissioner's Criteria of Rehabilitation are
attached hereto for the information of respondent.

This Decision shall become effective at 12 o'clock noon,
on March 9, 19 93.

IT IS SO ORDERED February 15, 1993.

CLARK WALLACE
Real Estate Commissioner

John R. Liberator
BY: John R. Liberator
Chief Deputy Commissioner

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation)	
Against:)	No. H-6773 SF
)	
THOMAS ELLIOTT MECKENSTOCK,)	OAH No. N-41680
)	
)	
Respondent.)	
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PROPOSED DECISION

This matter was heard before Michael C. Cohn, Administrative Law Judge, State of California, Office of Administrative Hearings, in San Francisco, California on December 29, 1992.

David B. Seals, Counsel, represented complainant.

Respondent Thomas Elliott Meckenstock represented himself.

FINDINGS OF FACT

I

Complainant Edward V. Chiolo made the Accusation in his official capacity as a Deputy Real Estate Commissioner of the State of California.

II

Thomas Elliot Meckenstock ("respondent") is presently licensed and has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) as a real estate broker.

III

On December 18, 1991, in the Municipal Court of California, Santa Clara County Judicial District, respondent was convicted, upon his plea of guilty, of a violation of Penal Code section 484/488 (petty theft), a crime involving moral turpitude

and which is substantially related to the qualifications, functions and duties of a real estate licensee. Following conviction, respondent was placed on one year court probation and was required to pay fines and penalties totaling \$290.

IV

Respondent is 32 years old. He has been licensed as a real estate broker since 1983. From the time of his licensure until 1989 respondent worked as a commercial real estate sales agent for Cunningham Associates, a commercial/industrial real estate broker. In 1989 respondent opened his own commercial/industrial real estate brokerage, Tektonic Partners. The license for that firm was cancelled in August 1991 and respondent began his current employment as Director of Marketing and Leasing for Berg & Berg, a real estate developer.

While attending college at Arizona State University between 1980 and 1982, respondent worked as a student assistant in various capacities in the athletic department, reporting to Assistant Athletic Director Herman Frazier. Also while in college, respondent worked one summer in the Oakland Athletics' summer marketing internship program. After graduation, respondent worked as a marketing representative for the Golden State Warriors until he received his real estate license.

V

Because of his former positions, respondent is often able to get free tickets to various sporting events. These tickets are left for him at the "will call" booth. In November 1992 respondent called Frazier to arrange for two field passes to the San Jose State-University of Nevada, Las Vegas football game at San Jose's Spartan Stadium.

When he arrived at the will call booth, there were no tickets in his or Frazier's name. The main ticket booth was called, but it had no record of tickets for respondent. Respondent, who was in a hurry because he was late for the game, then grabbed a few tickets off the stack on the counter and headed towards the stands. He was stopped and arrested before he could enter the stadium. Respondent testified he later learned that Frazier had forgotten to call to arrange the tickets.

VI

Respondent concedes it was a mistake, and "not the right thing to do," to take the tickets. He can only attribute his actions to the fact he was in a hurry.

DETERMINATION OF ISSUES

Cause for disciplinary action against respondent exists pursuant to Business and Professions Code sections 490 and 10177(b) by reason of the matters set forth in Finding III.

ORDER

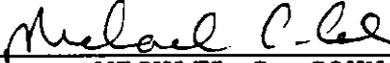
All licenses and licensing rights of respondent Thomas Elliott Meckenstock under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to respondent pursuant to section 10156.5 of the Business and Professions Code if respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to respondent shall be subject to all of the provisions of section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of section 10156.6 of that Code:

1. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of respondent's conviction or plea of nolo contendere to a crime which is substantially related to respondent's fitness or capacity as a real estate licensee.
2. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.
3. Respondent shall, within twelve (12) months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the respondent presents such

evidence. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

4. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until two (2) years have elapsed from the effective date of this Decision.

Dated: January 28, 1993



MICHAEL C. COHN
Administrative Law Judge
Office of Administrative Hearings

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BEFORE THE DEPARTMENT OF REAL ESTATE OCT 29 1992

STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

David B. Seals

In the Matter of the Accusation of

THOMAS ELLIOTT MECKENSTOCK,

Case No. H-6773 SF

OAH No. N-41680

Respondent

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at _____

OFFICE OF ADMINISTRATIVE HEARINGS, STATE BUILDING,

455 Golden Gate Avenue, Room 2248, S.F., CA 94102

on December 29, 1992 (1 hr.), at the hour of 1:30 pm,
or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: October 29, 1992

By *David B. Seals*
DAVID B. SEALS, *(m)* Counsel

1 DAVID B. SEALS, Counsel
2 Department of Real Estate
185 Berry Street, Room 3400
San Francisco, CA 94107-1770

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DEPARTMENT OF REAL ESTATE

3 Telephone: (415) 904-5917

By Maria J. ...

7 BEFORE THE DEPARTMENT OF REAL ESTATE

8 STATE OF CALIFORNIA

9 * * *

10	In the Matter of the Accusation of)	No. H- 6773 SF
11	THOMAS ELLIOTT MECKENSTOCK,)	
12	Respondent.)	<u>ACCUSATION</u>
13)	

14
15 The Complainant, EDWARD V. CHIOLO, a Deputy Real Estate
16 Commissioner of the State of California, for cause of Accusation
17 against THOMAS ELLIOTT MECKENSTOCK (hereinafter Respondent), is
18 informed and alleges as follows:

19 I

20 Respondent is presently licensed and/or has license
21 rights under the Real Estate Law, Part 1 of Division 4 of the
22 Business and Professions Code (hereinafter Code) as a real estate
23 broker.

24 II

25 The Complainant, EDWARD V. CHIOLO, a Deputy Real Estate
26 Commissioner of the State of California, makes this Accusation
27 against Respondent in his official capacity and not otherwise.

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III

On or about December 18, 1991, in the Municipal Court of California, Santa Clara County Judicial District, Respondent was convicted of violation of Section 484/488 of the California Penal Code (Petty Theft), a crime involving moral turpitude which is substantially related under Section 2910, Title 10, California Code of Regulations to the qualifications, functions or duties of a real estate licensee.

IV

The facts alleged above constitute cause under Sections 490 and 10177(b) of the Code for suspension or revocation of all licenses and license rights of Respondent under the Real Estate Law.

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of Respondent under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), and for such other and further relief as may be proper under other provisions of law.

Edward V. ChioLo

EDWARD V. CHIOLO
Deputy Real Estate Commissioner

Dated at San Francisco, California
this 27th day of August, 1992.